

Daniel S. Mason (SBN 54065)  
 Eric W. Buetzow (SBN 253803)  
 ZELLE HOFMANN VOELBEL & MASON LLP  
 44 Montgomery Street, Suite 3400  
 San Francisco, CA 94104  
 Telephone: (415) 693-0700  
 Facsimile: (415) 693-0770  
 dmason@zelle.com  
 ebuetzow@zelle.com

**FILED**

APR 28 2011

RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND

*Attorneys for Defendant Frederick P. Furth*

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

BEN FURTH, an individual,

Plaintiff,

vs.

FREDERICK P. FURTH, an individual, et al.,

Defendants.

Case No. CV-11-00071-DMR

**STIPULATION AND [PROPOSED]  
 ORDER RE: DISCOVERY**

CMC Date: April 28, 2011

Time: 11:00 a.m.

Courtroom: 4, 3rd Floor

Judge: Magistrate Judge Donna M. Ryu

Trial Date: Not Yet Set

Complaint Filed: January 7, 2011

WHEREAS, the Complaint in this matter was filed on January 7, 2011;

WHEREAS, the Answer to the Complaint was filed on January 27, 2011;

WHEREAS, Plaintiff Ben Furth and Defendant Frederick P. Furth (the "Parties") wish to have this matter resolved expeditiously and efficiently;

NOW THEREFORE, IT IS HEREBY STIPULATED by the undersigned counsel on behalf of the Parties identified above, that the time limits of Rule 26 are hereby waived, and the Court's January 7, 2011 Order Setting Initial Case Management Conference and ADR Deadlines may be amended. This stipulation, however, assumes that the Complaint filed on January 7, 2011 remains

~~the operative complaint in this matter and that no new claims or parties are added. If any new claims or parties are added, this stipulation will become non-operative and the parties will seek to negotiate~~

*DMR* 1 ~~an amended schedule to provide to the Court. Assuming that the existing claims and parties to do~~  
 2 ~~not change,~~ *J* the Parties stipulate as follows:

- 3 1. The Parties may initiate discovery on April 28, 2011.
- 4 2. All written discovery, including any document requests, interrogatories, or requests  
 5 for admission, shall be responded to within two weeks of service and the Parties shall serve each  
 6 other via electronic email.
- 7 3. All documents that were attached to the Parties' mediation briefs submitted to Judge  
 8 Legge at JAMS shall be treated as if produced in this litigation.
- 9 4. Where document requests are served, in addition to service of a written response, the  
 10 parties must respond by producing actual documents within two weeks of service of the requests.
- 11 5. The parties will use their best efforts to resolve any objections to the written discovery  
 12 requests in an expeditious manner.
- 13 6. All discovery requests and responses, including responsive documents, shall be  
 14 served by email.
- 15 7. The Parties shall make their Initial Disclosures on or before May 16, 2011.
- 16 8. All discovery shall be completed by October 3, 2011.
- 17 9. Any expert witnesses shall be disclosed and reports served by August 1, 2011.
- 18 10. Any rebuttal expert witnesses shall be disclosed and reports served on or before  
 19 August 22, 2011.
- 20 11. ~~Any dispositive motions shall be filed within 60 days of the discovery cut-off,~~  
 21 ~~October 3, 2011.~~
- 22 12. ~~Thereafter, the Court will set a pretrial conference, at which time other dates,~~  
 23 ~~including, if necessary, a trial date, will be scheduled.~~

24 //

25 //

26 //

27 //

28 //

1 IT IS SO STIPULATED.

2  
3 Dated: April \_\_\_, 2011

SHARTSIS FRIESE LLP

4  
5 By: \_\_\_\_\_  
Frank A. Cialone

6 Frank A. Cialone (State Bar No. 172816)  
7 SHARTSIS FRIESE LLP  
8 One Maritime Plaza  
9 Eighteenth Floor  
San Francisco, CA 94111  
Telephone: (415) 421-6500  
Facsimile: (415) 421-2922

10 Ben Furth (State Bar No. 203763)  
11 THE FURTH LAW FIRM PA  
12 780 Walnut #5  
13 Las Cruces, NM 88001  
14 Telephone: (575) 680-2968  
Facsimile: (575) 532-5815

*Attorneys for Plaintiff Ben Furth*

15 Dated: April \_\_\_, 2011

ZELLE HOFMANN VOELBEL & MASON LLP

16 By: \_\_\_\_\_  
Daniel S. Mason

17 Daniel S. Mason (State Bar No. 54065)  
18 Eric W. Buetzow (State Bar No. 253803)  
19 ZELLE HOFMANN VOELBEL & MASON LLP  
20 44 Montgomery Street, Suite 3400  
21 San Francisco, CA 94104  
22 Telephone: (415) 693-0700  
23 Facsimile: (415) 693-0770

*Attorneys for Defendant Frederick P. Furth*

24 I, Frank A. Cialone, hereby attest, pursuant to N.D. Cal. General Order No. 45, that the  
25 concurrence to the filing of this document has been obtained from each signatory hereto.

26  
27 \_\_\_\_\_  
Frank A. Cialone

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

*as modified by the Court  
to be consistent with the parties'  
agreements on the record  
at the April 28, 2011  
case management conference*

2  
3 Dated: 4/28, 2011

4  
5 

6 The Honorable Donna M. Ryu  
7 United States Magistrate Judge  
8 Northern District of California  
9 Oakland Division  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Zelle Hofmann Voelbel & Mason LLP  
44 Montgomery Street - Suite 3400  
San Francisco, CA 94104